

MDR Tracking Number: M5-04-0908-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 11-25-03.

The IRO reviewed paraffin bath, therapeutic exercises, and office visit from 12-23-02 through 1-13-03.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this Order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division. On 2-19-04, the requestor submitted a letter of withdrawal for date of service 12-4-02 that was to be reviewed as a fee. Therefore, no fee issues remain.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for dates of service 12-23-02 through 1-13-03 in this dispute.

This Order is hereby issued this 23rd day of April 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

February 18, 2004

**NOTICE OF INDEPENDENT REVIEW DECISION
Amended Determination**

RE: MDR Tracking #: M5-04-0908-01

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the ___ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in physical medicine and rehabilitation. The ___ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 54 year-old female who sustained a work related injury on ___. The patient reported that while at work she was operating a screwdriver and nail gun when she began to experience pain in her cervical and lumbar spine, right shoulder, right forearm, wrist and hand. On 11/15/01 the patient was evaluated by a chiropractor and was diagnosed with cervicobrachial syndrome, paresthesia, cervicalgia, and vertigo/dizziness. An EMG/NCV dated 12/6/01 indicated bilateral carpal tunnel syndrome, ulnar nerve neuropathy at the level of the tunnel of Guyon, and entrapment of right upper extremity. The patient was treated with physical therapy, chiropractic treatment, and medications. On 4/26/02 the patient underwent a metatarsophalangeal joint effusion, right thumb, with allograft in a cup and cone fashion. On 6/10/02 the patient underwent a removal of external fixation under anesthesia and removal of deep buried hardware. The patient was evaluated on 9/7/02 and was reported to have signs of early consolidation per X-Ray. On 8/6/02 X-Rays were reported to indicate no progression of what appeared to be early consolidation noted on 9/7/02. On 11/6/02 the patient was evaluated again and it was reported that X-Rays demonstrated possible consolidation of the injury. It was also indicated that the patient would continue physical therapy and had been using a bone growth stimulator for approximately two months.

Requested Services

Therapeutic exercises, paraffin bath, and office visits from 12/23/02 through 1/13/03.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

Rationale/Basis for Decision

The ____ physician reviewer noted that this case concerns a 54 year-old female who sustained a work related injury to her cervical and lumbar spine, right shoulder, right forearm, right wrist and hand. The ____ physician reviewer indicated that the patient underwent a right metatarsal and thumb fusion on 4/26/02 followed by physical therapy that began on 10/15/02 to increase range of motion and to decrease pain and edema.

The ____ physician reviewer noted that by 12/11/02 the patient had made progress in right thumb flexion, right wrist abduction, and the edema was slightly improved, however the pain level fluctuated.

The ____ physician reviewer also noted that by 12/31/02 the patient had made further progress with flexion increasing from 27 degree to 34, and grip strength had increased to 21 lbs. from 17. The ____ physician reviewer further noted that by 1/13/03 the patient had not made much more progress in active range of motion or strength and was then discharged from therapy.

The ____ physician reviewer explained that the therapy from 12/4/02 through 1/13/03 was medically necessary to improve this patient's active range of motion, and strength in the right thumb/wrist/hand. Therefore, the ____ physician consultant concluded that the therapeutic exercises, paraffin bath, and office visits from 12/23/02 through 1/13/03 were medically necessary to treat this patient's condition.

Sincerely,